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SUBJECT: 62ND UNGA: SIXTH COMMITTEE INFORMATION BRIEFING

¶1. (SBU) SUMMARY: The Sixth Committee Secretariat held an information briefing on September 19 - 20 for delegates to discuss items on the Committee's agenda this fall. Highlights included briefings on Criminal Accountability of United Nations Officials and Experts on Mission and the International Law Commission. The Secretariat provided a draft note to delegates on the subject of criminal jurisdiction over officials and experts on UN missions who commit serious crimes. In the note, the Secretariat advocated support for a convention on the matter. The full text of the note is contained in paragraph 6 below. END SUMMARY.

¶2. (U) The Sixth Committee Secretariat organized an information briefing on September 19 - 20 for delegates on Committee topics for the 62nd UNGA. Secretariat officials provided background information, approximate dates of consideration and a list of documents pertaining to the work of the Committee.

¶3. (U) Secretariat officials briefed the following topics: Rule of Law at the National and International Level; Administration of Justice at the United Nations; Criminal Accountability of United Nations Officials and Experts on Mission; Measures to Eliminate International Terrorism; Report of the 40th Session of the United Nations Commission on International Trade Law; Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; Report of the Host Country Committee; Observer Status Requests; Consideration of Prevention and Transboundary Harm from Hazardous Activities and Allocation of Loss in the Case of Such Harm; United Nations Program of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; Responsibility of States for Internationally Wrongful Acts; and Diplomatic Protection.

International Law Commission

¶4. (U) The Secretariat briefly summarized chapters 4 - 10 of the Report of the International Law Commission's 59th session and provided draft copies of chapters 2 and 3. Secretariat officials hope the full report will be available by September 28 as Supplement No. 10 (A/62/10).

Criminal Accountability

¶5. (U) Secretariat officials circulated a draft note that advocates, as a long-term objective for the Committee's consideration, a convention on emphasizing the role of Member States in relation to criminal jurisdiction when officials and experts of UN missions commit serious crimes.

¶6. (U) The following is the text of the draft note, which the

Secretariat expects to publish o/a October 5 as Note A/62/329.

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BEGIN TEXT:

Short-term measures:

The Secretariat supports the following short-term measures aimed at emphasizing the role of Member States in relation to the exercise of criminal jurisdiction:

(a) a General Assembly resolution strongly urging Member States to establish, as a minimum, jurisdiction over their nationals who commit serious crimes as they are known and defined in their existing domestic criminal laws, where conduct also constitutes a crime under the laws of the host State;

(b) the Security Council including language in mission specific resolutions encouraging countries contributing or seconding personnel to take appropriate preventative action, including the conduct of pre-deployment training, and to be in a position to hold persons who commit crimes accountable for that criminal conduct;

(c) the General Assembly, through the Special Committee on Peacekeeping Operations, requesting the Secretary-General to continue including similar language in the Memorandum of Understanding that is developed between the United Nations and a Member State contributing a Formed Police Unit and that the relevant Member State agree to this inclusion;

(d) the Department of Peacekeeping Operations ensure that Notes Verbale sent to Permanent Missions seeking personnel such as military observers, individual contributions to the police component of a United Nations operation and seconded

corrections officers make Member States aware of the expectation of the Secretariat that any person who serves as part of a United Nations operation is to have received pre-deployment training in relation to the zero tolerance policy and is aware that certain conduct may amount to a crime for which they will be held accountable.

Long-term Measures - A Convention

The Secretariat supports a Convention that:

(a) requires Member States to exercise jurisdiction when the alleged offender is a national of that State or the alleged offender is in that State and the State does not extradite him or her;

(b) requires Member States to consider establishing jurisdiction when the victim of the crime is a national or a stateless person who has his or her habitual residence in the territory of that State or the crime is committed by a stateless person who has his or her habitual residence in the territory of that State;

(c) covers crimes committed by all United Nations personnel (excluding military members of national contingents) who are in the area of a United Nations operation irrespective of the Department, Office, Programme, Fund or Specialized Agency with which they are engaged;

(d) applies to all crimes and is not limited to crimes against the person or to crimes involving sexual exploitation and abuse; and

(e) facilitates international cooperation and cooperation between Member States and the Secretariat.

END TEXT.

Comment:

17. (SBU) USUN was surprised by the Secretariat's long-term recommendation for a convention on the exercise of criminal jurisdiction, given that discussions on this issue are still ongoing by the working group.
KHALILZAD